

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ADAN YUSUF IBRAHIM,

Plaintiff,

v.

DRAKE, et al.,

Defendants.

Case No. 2:23-cv-01755-BHS-TLF

ORDER DIRECTING DEFENDANT
TO INDICATE THEIR DECISION
TO REQUEST SUPPLEMENTING
THE RECORD OR BRIEFING OR
STAND ON THEIR CURRENT
SUMMARY JUDGMENT BRIEF

On February 5, 2025, the Court held a status hearing by videoconference. Dkt. 53, 58. The Court reviewed the parties' joint status report (Dkt. 53) and will issue a separate amended pretrial scheduling order.

During the conference, the parties requested clarification from the Court about the next steps on defendants' pending motion for summary judgment for failure to exhaust administrative remedies (Dkt. 27).

During the October 25, 2024, hearing on the defendants' motion, when plaintiff was a pro se litigant, the Court asked questions about plaintiff's mental health -- in the context of the record showing plaintiff had been transferred to Western State Hospital for competency evaluations on three different occasions. The Court stated it would issue an order to show cause for the parties to submit additional information relating to plaintiff's mental health condition and the records pertaining to his underlying criminal matter because the record appeared incomplete.

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1 Because plaintiff is now represented by counsel, the Court *withdraws* its oral
2 comment regarding the need for an order to show cause.

3 The plaintiff indicated during the hearing that they were considering filing an
4 amended complaint. The Court's pretrial scheduling order will include a deadline for
5 filing any motion to amend the complaint.

6 The Court **ORDERS** defendants to inform the Court and opposing counsel by
7 filing a motion with the Court, if the defendants request to supplement the record
8 concerning their pending summary judgment motion. In the motion, the defendants
9 should be clear if they are only requesting the opportunity to present additional
10 documents and supplement the record, or if they want to supplement the record *and* file
11 a new motion for summary judgment to dismiss for failure to exhaust administrative
12 remedies.

13 The deadline for defendants to make this motion is **February 18, 2025**. If plaintiff
14 objects to defendants' request, their deadline to file any objection is **February 25, 2025**.

15 The Court will give the plaintiff an opportunity to respond to the existing summary
16 judgment motion (Dkt. 27), and will provide an opportunity for the defense to reply to
17 plaintiff's response brief, now that plaintiff is represented by counsel, even if the
18 defendants do not supplement the record or request an opportunity to file a new
19 summary judgment motion.

20 After the Court receives defendants' request (if any) and plaintiff's response (if
21 any), the Court will set a pretrial schedule, and the schedule will include a briefing
22 schedule for the defendant's summary judgment motion. The defendant will not be
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1 required to re-note the summary judgment motion, instead, the Court will re-note the
2 motion.

3 Dated this 10th day of February, 2025.

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Theresa L. Fricke
7 United States Magistrate Judge
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